

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
V.)
)
SAMUEL A ASHLEY JR.)
)
Defendant.)

Case No. 1:04 CV 689
Criminal No. 1:02-CR-22

Chief Judge Beckwith

2005 JAN 18 PM 12:40
SOUTHERN DISTRICT OF OHIO
WEST DIVISION

FILED
JAMES J. JONES
CLERK

MOTION FOR DISCOVERY

Now comes the defendant, Sam Ashley, pro-se, hereby moves this court to grant him the following discovery requests.

As a protective measure, the defendant will request this court to enter orders for discovery even in those areas where controversy does not exist. Such an order will formalize the duties and responsibilities of the parties, and resultant clarity of obligation will prevent later controversy concerning what was and was not ordered discoverable.

REQUESTS

RULE 16(a)(1)(A) Fed.R..Crim.P.

1. All relevant written or recorded statements made by the defendant and the requests which follow include documents within the possession, custody or control of the government, the existence of which is known, to one of the attorneys for the government.
2. The substance of any oral statement which the government would have intended to use in evidence of a trial

(2)

in this case. Statements made by the defendant after arrest in response to interrogation by any person then known to that defendant to be a government agent.

3. Any statement, confession, or admission relating directly or indirectly to the charge in this case, made by the defendant, or co-defendant, or the defendant's wife to investigating officers or to third parties. This request includes statement or admission which may have been incorporated in any report, memorandum or other document or recording, prepared by federal, state or local government agents or attorney or by any other persons working in conjunction with such agents or attorneys.

The requests that are listed above are needed to prove very certain facts that the defendant has alleged in his \$2255. Those facts include the government's frivolous claims that the defendant admitted that he stole over one million dollars. It will also prove what was said at the de-briefings that were attended by all of the case agents. The defendant says one thing and the government says something completely different. The truth will be in these requested documents above.

RULE 16(a)(1)(C) Fed.R.Crim.P.

4. All papers, documents, photographs, tangible objects, video tape recordings, audio tape recordings, and other physical evidence within the possession, custody or control of the government, which:
 - a) the government intends to use as evidence at trial;
 - b) were obtained from or belong to the defendant;
 - c) are material to the preparation of the defense in this case.

RULE 16(a)(1)(D), Fed.R.Crim.P.

(3)

5. Regarding all scientific tests and reports:
- a) a statement of all material and other information or sources considered by the examiner in arriving at an opinion, the methodology used, and the findings and conclusions of the examiner;
 - b) a resume and curriculum vitae of the examiner's qualifications, experience, subject matter of the examiner's testimony, and prior occasions of testimony as an expert witness;
 - c) any and all worksheets, photographs, notes, or other things, used to assist the examiner in reaching an opinion and recording the process or methodology to reach that opinion.

RULE 16(c) , Fed.R.Crim.P.

6. An order that the government have a continuing duty to produce any and all documents ordered to be produced by the court in response to these requests at any time when they come into the possession of the government or when knowledge of their existence can be gained by the exercise of due diligence on behalf of the government.

EXCULPATORY MATERIAL

7. In accordance with **Brady V. Maryland, 373 U.S. 83 (1963)** and its progeny, all information in whatever form, source or nature which is favorable to the defendant, and material to the issues of either guilt or punishment, either through an indication of the defendant's innocence, negation of any elements of the charged offense, or through potential impeachment of government witnesses or contradiction of government evidence; and all information which may be or become of benefit to the defendant in preparing for his motion to correct, set aside, or vacate under §2255.

(4)

8. Any confession, admissions, and/or statements made by any co-defendant, or relative, or anyone connected with this case that anyone made to any government agent, police officer, or government attorney, at any time or place, which exculpate the defendant, whether or not reduced to writing.
9. Regarding any witness that the government claims that they would have called if this case would have gone to trial.
 - a) any consideration, reward, agreement, or promise including promises of immunity, grants of 5K1 motions, special witness fees, or any other promise made to anyone concerning this case.
10. The name and address of each person that the government would have called as a witness, if this case would have gone to court.
11. A description of the substance of any oral statement and a copy of each and every statement given to any government agent, police officer, or government attorney.
12. All statements made by any witness for the government in this case---"Jencke Act" statements (19 U.S.C. §3500) to be provided at least 11 days in advance of evidentiary hearing.
13. A description of the circumstances and the manner of any search and/or seizure relating to this case, including but not limited to;
 - a) The names, titles, and addresses of any and all law enforcement officers or third parties present;

(5)

- b) A list of items which were seized and the exact location of their seizure;
- c) The exact time of the search, and the exact time of the seizure of such item;
- d) The manner of entry into the place where any items were seized and;
- e) Production of copies of all **search warrants** and supporting documents relating to any search and/or seizure, voluntary production, or consent search, how permission was obtained.

In requests number 6 thru 13 (e), the defendant is asking for copies of evidence that would be of interest to the defendant and to the court, so that the court can determine what exactly the facts are. The government claims (falsely) that the defendant admitted that he stole over one million dollars. Now, they seemed outraged that they might have to actually prove their numerous false claims.

Specifically, this court should also be made aware, that on **June 20, 2003, Criminal Docket number 79. (Judge D'Lott issued a Court Order, ordering the F.B.I. to return all property of the defendant).** Over 18 Months ago, the government was ordered to turn over this "Seized" property. The court has not enforced this order, and the government certainly has not returned one single item they took. The defendant claims that government agents entered into his home and took some of the defendant's property, including personal items. Again, the facts will prove themselves as this court orders these very important items to be produced.

**PEN REGISTERS, ELECTRONIC AND/OR SURREPTITIOUS
SURVEILLANCE AND TELEPHONE TOLL RECORDS**

(6)

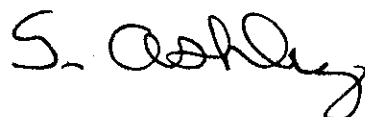
14. Advise defendant of any electronic or surreptitious interception, other than that previously provided. This request includes, but not limited to, production of any memoranda, transcripts, notes or other record thereof, preserved by any means whatsoever, which were procured by any electronic, mechanical or physical wiretapping, eavesdropping, overhearing or surveillance.

The defendant respectfully submits to this court, that discovery in this case is absolutely crucial to the \$2255 motion that the defendant has filed. The court is certainly after the truth in the complaint. By ordering the government to produce these items the court will be able to see facts, not just the allegations of the defendant, or of the government. Let's seek the truth.

This case is an example of the "government running amuck", depriving defendant's of rights and actually lying to cover it all up. They use the word frivolous whenever they can't think of anything else to say. The government thinks they can conduct illegal searches, take personal property, and then snub their nose at a Federal Judge that orders them to return personal property. The Government themselves are **frivolous** they seem to think that maybe the US Constitution was written by a bunch of drunks and means nothing to them. The defendant submits to this court, that the US Constitution does mean exactly what it says, regardless how the Asst. US Attorney tries to bend it.

For all the reasons stated above, the defendant requests that this court order that every item requested be produced to the defendant without further delay, and also that the F.B.I. comply with Judge D'Lott's order to return the defendant's property.

RESPECTFULLY SUBMITTED



CERTIFICATION

I do hereby certify that a copy of both of these motions have been sent VIA inmate legal mail at Ashland F.C.I. to Asst. US Attorney J. Coombe at 221 East Fourth St. Suite 400 Cincinnati Ohio 45202 on this 10 day of JAN 2005

S. 